

District: Sherpur

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL REVISIONAL JURISDICTION)

Present

Mr. Justice Sardar Md. Rashed Jahangir

Civil Revision No. 4278 of 2017

In the matter of :

Kafil alias Md. Kafil Uddin Sk. and others
... Petitioners

-Versus-

Principal, Sherpur Government University
College and others

...Opposite parties

Mr. Subrata Saha, Senior Advocate with
Mr. Kamal Hossain,
Ms. Madhuri Saha,
Mr. Manabendra Roy,
Mr. Oaliullah Sardar Sourav and
Mr. Abul Kalam, Advocates

...For the petitioners

Mr. Jahangir Ahmed Khan, D.A.G with
Mr. Md. Habibur Rahman Sarker, A.A.G

...For the Opposite party No. 2

Mr. Shuvra Dev Ratul, Advocate

...For the opposite party Nos. 1, 3 and 4

Mr. Md. Saidul Alam Khan, Advocate

...For the opposite party Nos. 5(a)-5(d)

Judgment on: 04.02.2025

Rule was issued calling upon the opposite party Nos. 1-5 to
show cause as to why the judgment and decree dated 13.11.2017

passed by the Joint District Judge, First Court, Sherpur in Other Class Appeal No. 47 of 2015, affirming those of dated 18.03.2015 passed by the Senior Assistant Judge, Sherpur Sadar, Sherpur in Other Class Suit No. 215 of 2001 should not be set aside and/or such other or further order or orders as to this Court may seem fit and proper.

Today, the matter is fixed for pronouncement of judgment. At the time of delivery of judgment, learned Senior Advocate Mr. Subrata Saha on behalf of the plaintiff-petitioners by filing an application under Order XXIII, rule 1 and 2 read with section 151 of the Code of Civil Procedure submits that his client i.e. the plaintiffs-petitioners are willing to withdraw their revisional application as well as the suit unconditionally.

Heard learned Advocate for the petitioners as well as the opposite parties.

Contemplation of rule 1(1) of Order XXIII of the Code of Civil Procedure is that the plaintiff has an absolute and unqualified right to withdraw his suit or cause at any time after

institution of it and law imposes no limitation, when the withdrawal of the suit is sought for unconditionally.

Since the present revisional application is directed against the judgment and decree dated 13.11.2017 passed by the Joint District Judge, First Court, Sherpur in Other Class Appeal No. 47 of 2015, affirming those of dated 18.03.2015 passed by the Senior Assistant Judge, Sherpur Sadar, Sherpur in Other Class Suit No. 215 of 2001 and in view of the judgment of the case of Abdur Rahman and other Vs. Kheru Malitha and others, reported in 50 DLR(AD) 71, with such allowance of the application for withdrawal the judgments passed by both the Courts below is hereby set aside, because, withdrawal of a suit necessarily blots out the effect of the judgments and decree prior to the withdrawal.

With the aforesaid permission and observation, the Rule is disposed of without any order as to cost.

Send down the Lower Courts' Record.

Communicate the judgment and order at once.